

REMARKS/ARGUMENTS

Reconsideration is requested. Claims 21-26 are currently pending. Responsive to the Final Office Action of 03/26/2007, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

To expedite allowance, independent claims 21 and 26 have been amended for clarity. In particular, the claims have been amended to recite that the "homogenous surface modification layer" is "made up of **identical** self assembling molecules" (emphasis added, see, for example, page 6, lines 3-5 of the original disclosure).

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

Claim Rejections under 35 U.S.C. §103

The subject matter of claims 21-23 and 25-26 was rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent 6,306,584 to Bamdad (hereinafter "Bamdad") and U.S. Patent No. 5,834,224 to Ruger et al. (hereinafter "Ruger").

Applicants' understanding of Bamdad was discussed in their previous Response of June 13, 2006. In particular, Applicants note that Bamdad describes a layer suitable for capturing a biological molecule (such as nucleic acid strands) for determination thereof (see, for example, col. 9, line 66 through col. 10, line 2 of Bamdad). The layer of Bamdad is made up of first and second species that are mixed together to form a **mixed** self-assembled monolayer (emphasis added; see, for example, col. 3, lines 47-63, col. 10, lines 43-46 and col. 11, lines 6-13 of Bamdad).

Ruger, as understood, describes an electrochemical sensor that has a "diluted" monolayer of enzyme binding molecules (see, for example, col. 2, lines 33-35 and 45-51 of Ruger). The enzyme binding monolayer of Ruger is described as including diluent molecules that are distinct from the monolayer's binding molecules (see, for example, col. 3, lines 38-40 of Ruger).

Independent claims 21 and 26, each recite "a homogeneous surface modification layer made up of identical self assembling molecules." Bamdad describes a layer configured for

capturing biological molecules while Ruger describes a diluted enzyme binding layer. In addition, both Bamdad and Ruger describe and teach layers that are made up of more than one species. Moreover, since Bamdad is concerned with biological molecule capturing layers and Ruger is concerned with enzyme binding layers, their combination is not warranted.

In contrast to Bamdad and Ruger, the present claims recite a "surface modification layer" that is made up of "identical" molecules. Such surface modification layers beneficially provide storage stability, low interference with electrochemical measurements, and fast wicking times (see, for example, page 14, lines 6-12 of the original disclosure).

For at least the foregoing reasons, Applicants respectfully submit that the cited combination of Bamdad and Ruger does not make obvious the subject matter of independent claims 21 and 26 that claims 21 and 26 are, therefore, allowable. Since claims 22, 23 and 25 depend from and further limit independent claim 21, they are allowable for at least the same reasons.

The subject matter of dependent claim 24 was rejected under 35 U.S.C. §103(a) as obvious over Bamdad and Ruger in view of U.S. Patent No. 4,813,538 to Blackman (hereinafter "Blackman").

Blackman was cited for its descriptions of reusable lancets (see, for example, col. 5, lines 6-9 of Blackman). Applicants respectfully submit that Blackman does not cure the deficiencies of Bamdad and Ruger described above and that, therefore, dependent claim 24 is allowable for at least the same reasons as its parent, i.e., independent claim 21.

Double Patenting Rejection

The subject matter of claim 26 was rejected on the ground of nonstatutory obviousness-type double patenting over claim 1 of U.S. Patent No. 6,716,577 in view of Bamdad and U.S. Patent No. 5,869,001 to Backhaus et al. Upon allowance, Applicants are prepared to file a terminal disclaimer should the allowed claims so warrant.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicants earnestly solicit early examination on

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the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, he is urged to contact the undersigned Attorney via telephone at 408-956-4790, or facsimile number 408-956-4404.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. 10-0750/LFS0097USDIV/BES) (Johnson & Johnson).

Respectfully submitted,

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